

**UNITED STATES v. ZACARIAS MOUSSAOUI (NO. 01-455)**  
**SUBSTITUTION FOR THE TESTIMONY OF**  
**“JOHN”**

If called to testify, this witness would say the following:

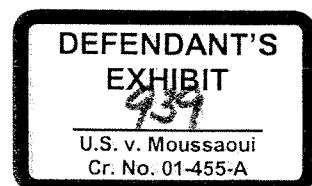
“John” is a former Deputy Chief of the Usama Bin Laden Unit at the CIA. In May 2001, John was “detailed” to FBI Headquarters in the International Terrorism Operations Section (ITOS). (A detailee is an employee from one organization who is loaned to another.) In that capacity, John acted as the CIA’s chief intelligence representative to ITOS Section Chief Michael Rolince. John’s primary role at the FBI was to assist the FBI in exploiting information for intelligence purposes.

Khalid al-Mihdhar and Nawaf al-Hazmi

Shortly before assuming his duties at the FBI, John asked management in the CIA’s Counterterrorism Center (CTC) to assign a CTC desk officer with “getting up to speed” on the early 2000 meetings in Kuala Lumpur, Malaysia and determining any potential connections between those meetings and the October 2000 terrorist attack on the U.S.S. Cole. This assignment was given to “Mary,” who was an FBI detailee in the CIA’s CTC.

After joining ITOS in May 2001, John had continuing concerns about the early 2000 meetings in Kuala Lumpur, especially whether they had any nexus to the attack on the Cole. On May 15, 2001, John reminded several of his CTC colleagues that after the Malaysia meetings, Khalid al-Mihdhar had traveled with Nawaf al-Hazmi and another person who he (John) believed were couriers that had traveled between Malaysia, Bangkok, Los Angeles, and Hong Kong.

Around this same time in May, John began inquiring about the Malaysia meetings with a CIA analyst in the CTC named “Peter.” John knew that Peter had been “down in the weeds” and knew the “nuts and bolts” of the Cole investigation because Peter has been assigned to prepare a CTC report on who was responsible for the Cole attack.



John and Peter discussed the Malaysia meetings, and Peter provided John with a copy of the timeline of events related to the Cole investigation that Peter had compiled as part of his work on the Cole attack. In an e-mail to Peter in mid-May 2001, which was copied to "Mary," John noted that he (John) was interested because Mihdhar was traveling with two "companions" who had left Malaysia and gone to Bangkok, Los Angeles, and Hong Kong and "also were couriers of a sort." John noted in the e-mail that "something bad was definitely up." Peter replied in an e-mail dated May 18, 2001, "My head is spinning over this East Asia travel. Do you know if anyone in [the CIA's Bin Laden Unit] or FBI mapped this?"

At some point before the end of May 2001, John discussed with Dina Corsi, who was an Intelligence Operations Specialist in the FBI's Usama Bin Laden Unit, the East Asian travel of some UBL operatives in January 2000. John also began looking in CIA records for the surveillance photographs taken of the meetings in Kuala Lumpur, Malaysia in January 2000. John obtained three of the photographs, which included Mihdhar. At that time, John thought he recalled hearing that an identification of Khallad in the photographs had been made.

At some point before the end of May 2001, John gave to Corsi the three Malaysia meeting photographs. He does not recall ever discussing with Corsi, or anyone else at the FBI, his recollection that Khallad had been identified in the photographs. John believed that since the photographs had been given to Corsi, they could be further distributed within the FBI.

On July 13, 2001, John wrote another e-mail to CTC managers stating that he had discovered a CIA cable stating that a joint CIA-FBI source had, in early January 2001, identified Khallad in the Kuala Lumpur surveillance photographs with a high degree of certainty. John began the e-mail by announcing "OK. This is important." He then described Khallad as a "major league killer who orchestrated the Cole attack and possibly the Africa bombings." The e-mail recommended revisiting the Malaysia meetings, especially in relation to any potential information on Khallad. John ended the e-mail asking, "can this [information] be sent via [Central Intelligence Report] to [the FBI]?"

John received a responsive e-mail dated July 13, 2001 from a CTC Bin Laden Unit supervisor. That e-mail stated that "Mary" had been assigned to handle the request for additional information on the Malaysia meetings.

On July 23, 2001, having seen no action, John e-mailed a CTC manager inquiring as to the status of his request to pass information to the FBI. In the e-mail, John noted that, "When the next big op is carried out by UBL hardcore cadre, Khalad will be at or near the top of the command food chain--and probably nowhere near either the attack site or Afghanistan. That makes people who are available and who have direct access to him of very high interest. Khalid Midhar [sic] should be [of] very high interest anyway, given his connection to the [redacted]."

On August 22, 2001, John met with Corsi and Mary in his office at FBI Headquarters. They discussed Corsi and Mary's discovery that Mihdhar recently had entered the United States and that there was no record of his departure. All of them agreed that it was important to initiate an investigation to determine whether Mihdhar was still in the United States and locate him if he was.

#### Zacarias Moussaoui

On August 24, 2001, John e-mailed Michael Maltbie about the Moussaoui case. Maltbie was a Supervisory Special Agent in the Radical Fundamentalist Unit (RFU) in ITOS. Maltbie was working on the request from the Minneapolis Field Office of the FBI for a Foreign Intelligence Surveillance Act (FISA) warrant to search Moussaoui's property. Copied on this e-mail were two others in the RFU who also were working on the Moussaoui case, David Frasca, the Chief of the RFU, and Rita Flack, an Intelligence Operations Specialist in the RFU. In the e-mail, John asked Maltbie for an update on the Moussaoui case. Maltbie responded in an e-mail the same day, stating, among other things, that "Photos of [Moussaoui and Hussein al-Attas] were . . . forwarded to [Charles] Frahm this afternoon." (Frahm was the FBI's detailee at the CIA.) Maltbie concluded by stating, "Please bear in mind that there is no indication that either of these two [Moussaoui and Hussein al-Attas] had plans for nefarious activity, as was apparently indicated in an earlier communication." A copy

of these two e-mails is attached as Defendant's Exhibit 639.

Agreed:



Counsel for Mr. Moussaoui



Counsel for the United States

Date: March 11, 2006